

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.500 of 2015**

Ram Govind S/o Dadhiwaman, Aged About 62 Years R/o. Village
Gadahabhata, P.H. No. 31, Circle And Tahsil Basna, District
Mahasamund (Chhattisgarh)

---- Petitioner**Versus**

1. Kamala Bai W/o Shyamsundar R/o. Village Gadahabhata, P.H. No. 31,
Circle And Tahsil Basna, District Mahasamund (Chhattisgarh)
2. Board Of Revenue, Circuit Court, Raipur (Chhattisgarh)
3. Additional Commissioner, Raipur Division, Raipur (Chhattisgarh)
4. Sub Divisional Officer, Revenue, saraipalai, District Mahasamund
(Chhattisgarh)
5. Tahsildar, Basna, District Mahasamund (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri R. Pradhan, Advocate
For Respondent No.1	:	Shri Adil Minhaz, Advocate
For Respondent /State	:	Shri Ramakant Pandey, Govt. Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****13/04/2016**

Heard.

2. This petition has been filed by the petitioner aggrieved by order dated 19-05-2015, by which, Board of Revenue has set aside the mutation order on the ground that the respondent No.1- Kamla Bai was not afforded proper opportunity of hearing.
3. Learned counsel for petitioner submits that the records show that the process server had served notice on Kamla Bai. It bears the signature of Kamla

Bai and there are two witnesses. According to him, if the respondent-Kamla Bai disputed service of notice, it was incumbent on the part of the respondent to call for the examination of the process server and two witnesses.

4. On the other hand, learned counsel for the respondent No.1 submits that the Tahsildar, who carried out mutation proceedings was duty bound to record satisfaction regarding service of notice on respondent-Kamla Bai. He submits that according to Kamla Bai, no notice was issued much less service of notice.

5. From the grounds raised in the appeal filed by the respondent No.1-Kamla Bai against the order of mutation itself, it is found that proper opportunity of hearing was not afforded. The appellate authority, upon perusal of the Court order, recorded that opportunity of hearing was not afforded to Kamla Bai and thereafter, on second appeal being preferred, the Additional Commissioner, reversed the order. The Board of Revenue again examined the records and recorded that there was no proper service of notice.

6. This Court summoned the records of the case. After perusal of the case, it is found that there was notice issued in the name of Kamla Bai and records service of notice on Kamla Bai. However, in the order sheet, no satisfaction was recorded by the Tahsildar.

7. In case, challenge is made to the order on the ground that proper opportunity of hearing was not afforded and notice was not served, proper course of action required to be adopted by the Board of Revenue to remit the matter to the Tahsildar for recording statements of the process server and two witnesses and afford opportunity of hearing to respondent-Kamla Bai to cross-examine those witnesses and then record a finding as to whether notice was served on Kamla Bai or not.

8. The opinion of the Revenue Court is that proper opportunity of hearing was not afforded to the respondent-Kamla Bai. The Board of Revenue has also

recorded a finding that the notice was not served to Kamla Bai.

9. In view of above consideration, I am not inclined to interfere with impugned order. However, it would be in the interest of justice to direct both the parties to examine the process server and witnesses of so-called notice. Both the parties would be at liberty to cross-examine the aforesaid witnesses. The Tahsildar, after examination of witnesses, record a finding of service of notice. If it is found that the notice was properly served on respondent-Kamla Bai, the order passed by the Tahsildar regarding mutation shall stand. However, if it is found that the notice was not served, the Tahsildar shall hear both the parties and then pass a fresh order on the mutation proceedings. Records of the Court below be remitted forthwith.

10. Both the parties shall appear before the Tahsildar on 15-06-2016.

Sd/-
Manindra Mohan Shrivastava
Judge